

## **REMARKS**

1. The claims have been amended, as shown above, to emphasize the distinctions between the present invention and the prior art, and for clarity. No new matter is added by these amendments. It is believed that the claims, as amended, overcome each of the rejections stated in the Final Office Action, as discussed below.

2. The Final Office Action primarily responded to the Applicant's arguments in its Response to Office Action, dated July 13, 2005, which responded to an Office Action dated January 13, 2005 (the "First Office Action"). The Final Office Action incorporated and restated the grounds of rejection stated in the First Office Action. In particular, in the First Office Action, the Examiner rejected all pending claims (Claims 175-197) under 35 U.S.C. 103(a) as being unpatentable over Perry (U.S. Pat. No. 5,241,466) in view of Krim (U.S. Appl'n Pub. No. 2002/0072925), and those rejections were incorporated the Final Office Action. Therefore, the Remarks below are directed towards the grounds of rejection stated in the First Office Action, as reiterated in the Final Office Action.

### **Claim Rejections – 35 U.S.C. § 103**

3. Claim 175 has been amended to emphasize that in addition to receiving documents or information from a user (such as in Perry), the system of the present invention provides reference information and analysis to the user regarding available choices of future care ("electives") in the event of an incapacitating condition and then

permits the user to make elections of such choices. Neither Perry nor Krim disclose, teach, or suggest such analytical guidance and decision-making capability. Claim 175 also identifies the interface as being accessible over the internet, which is not disclosed in Perry.

4. Claim 175 has been amended to distinguish between previously existing information originating from the user (i.e. “raw data”), on the one hand, and the decisions made about future care via the system (i.e., “electives” and “elections”), on the other. Perry deals only with acting as a repository for information originating from the user. Neither Perry nor Krim permit elections of future care to be made via the interface of the system.

5. Similarly, claim 175 has been amended to clarify that both the “raw data” and the “elections” are stored as “end of life information” in an “information set.” Thus, “end of life” information includes both previously existing information (“raw data”) and newly made decisions made through the system of the present invention.

6. Claim 175 has been amended to emphasize that the “information product” is “generat[ed]” by the system from the end of life information and includes the user’s election of response to the particular incapacitating condition at issue. Thus, the elections made by the user, via the system, in the earlier steps are carried out in this step. Perry does not disclose, teach, or suggest this functionality.

7. Dependent claims 176-77 and 185-86 are amended for clarity and consistency with the amendments to claim 175.

8. Claim 187-98 have been cancelled as redundant because they substantially duplicative of Claims 175-86 (only in an apparatus format), and are therefore unnecessary, especially in view of the recent decision of *Ex Parte Lundgren*, Appeal No. 2003-2088 (BPAI 2005). It is submitted that the method claims of the present invention encompass the invention, regardless in what apparatus it is embodied.

9. New claims 198 depends from claims 175 and is directed towards the “raw data” referenced in the independent claims and as defined in the specification.

10. New claims 199-208 are method claims, which are novel and distinguishable over the prior art for many of the reasons stated above. For example, Claim 199 includes the analysis and election steps, which are not disclosed, taught, or suggested by Perry or Krim.

The applicant submits that the present claims are allowable over the prior art of record. It is believed the application is therefore in condition for allowance, and such action is respectfully requested. However, should there remain unresolved issues that require adverse action, it is respectfully requested that the Examiner telephone the undersigned at (205) 521-8766 so that such issues may be resolved as expeditiously as possible.

Respectfully Submitted,

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Date

Paul Sykes  
Paul Sykes

Attorney for Applicant  
Reg. No. 43,942

Of Counsel:

T. Gregory Peterson, Ph.D.  
BRADLEY ARANT ROSE & WHITE LLP  
One Federal Place  
1819 Fifth Avenue North  
Birmingham, AL 35203-2104  
Telephone: (205) 521-8766